

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 03-2395

June Williams,

Appellant,

v.

The Thomson Corporation; Thomson
Publishing Corporation; West
Publishing Company, doing business
as West Legal Publishing, doing
business as West Group; Brian Hall;
Andrew Prozes; Timothy J. Blank;
Jeannine Bieter; Lea Harpster, also
known as Lea Walstrom; Kevin
Appold; Kay Engler; Kirk Emmen,

Appellees.

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Appeal from the United States
District Court for the
District of Minnesota.

[PUBLISHED]

Submitted: May 14, 2004
Filed: August 25, 2004

Before MURPHY, HEANEY, and MAGILL, Circuit Judges.

PER CURIAM.

June R. Williams was terminated on February 4, 1998, after four years of working as a reference attorney for the Westlaw division of West Group. Following

her termination, Williams lodged a complaint against Westlaw with the Office of Federal Contract Compliance Programs, alleging that she was discriminated against on the basis of her race, sex, religion, and disability. Williams's complaint was referred to the Equal Employment Opportunity Commission (EEOC), which mailed a right-to-sue letter to her on-file address on June 17, 1999. Williams filed suit against West Publishing Corporation, The Thomson Corporation, several of Thomson's subsidiaries, and various West employees on October 21, 1999, in the United States District Court for the District of Ohio, advancing claims under Title VII, 42 U.S.C. § 1981, the Americans with Disabilities Act (ADA), the Equal Pay Act, the Fair Labor Standards Act, the Minnesota Whistleblower's Act, and the Family Medical Leave Act. The district court in Ohio granted the defendants' motion to transfer the case to the District of Minnesota. After the case was transferred, the defendants moved for summary judgment, urging the district court¹ to dismiss several of the claims as time-barred and to dismiss the remaining claims on the merits. The court granted the motion and Williams now appeals. After carefully reviewing the record before us, see McKay v. United States Dep't of Transp., 340 F.3d 695, 697 (8th Cir. 2003) (applying de novo review to an appeal from a grant of summary judgment), we affirm.

We agree with the district court that Williams's Title VII and ADA claims are time-barred, see 42 U.S.C. § 2000e-5(f)(1); 42 U.S.C. § 12117(a) (applying the 90-day statute of limitations to ADA claims); Maegdlin v. Int'l Ass'n of Machinists & Aerospace Workers, Dist. 949, 309 F.3d 1051, 1054 (8th Cir. 2002) (affirming the dismissal of Title VII claims as untimely because they were filed more than 90 days after the issuance of the right-to-sue letter). Williams's explanation that she did not read the right-to-sue letter until two weeks after it arrived at her forwarding address, does not save her claims from being time-barred. Hill v. John Chezik Imps., 869 F.2d

¹The Honorable Michael J. Davis, United States District Court Judge for the District of Minnesota.

1122, 1124 (8th Cir. 1989) (“Generally, the ninety-day filing period begins to run on the day the right to sue letter is received at the most recent address that a plaintiff has provided the EEOC.”); St. Louis v. Alverno Coll., 744 F.2d 1314, 1317 (8th Cir. 1984). Additionally, Williams’s argument that the district court was bound by the law of the case doctrine because the Ohio court ordered her case transferred, as opposed to dismissing her claims as untimely, is incorrect. See Murr Plumbing, Inc. v. Scherer Bros. Fin. Servs., Co., 48 F.3d 1066, 1070 (8th Cir. 1995) (“[T]he doctrine of law of the case is applicable only to final judgments, not to interlocutory orders.”); United States Fire Ins. Co. v. Am. Family Life Assurance Co., 787 F.2d 438 (8th Cir. 1986) (per curiam) (holding that an order transferring the case to another district court is an interlocutory order).

Furthermore, the district court was correct to conclude that the facts of this case do not warrant an equitable tolling of the statute of limitations. See Heideman v. PFL, Inc., 904 F.2d 1262, 1266 (8th Cir. 1990) (“Equitable tolling is appropriate only when the circumstances that cause a plaintiff to miss a filing deadline are out of his hands.”). Williams failed to update her address with the EEOC when she moved to Ohio in the beginning of June, despite her pending appeal with the EEOC and her awareness that the EEOC intended to issue her a right-to-sue letter. See Hill, 869 F.2d at 1124 (finding that equitable tolling was not appropriate when the plaintiff did not inform the EEOC of her new address); 29 C.F.R. § 1601.7(b) (stating that a party who has a complaint pending with the EEOC has “the responsibility to provide the Commission with notice of any change in address and with notice of any prolonged absence from that current address”). Additionally, even if Williams’s claims were not time-barred, she has not adduced any evidence to show that West’s legitimate reasons for denying her promotions, and eventually terminating her, were pretextual. See Brooks v. Ameren UE, 345 F.3d 986, 988 (8th Cir. 2003) (affirming summary judgment when the employer offered a nondiscriminatory reason for denying plaintiff the promotion and plaintiff could not offer proof of pretext); Edmund v. MidAmerican Energy Co., 299 F.3d 679, 685 (8th Cir. 2002) (finding that plaintiff

must do more than “raise doubts about the wisdom and fairness of the opinions of him held by his superiors and his fellow employees” to survive a summary judgment motion).

We also find that the district court did not abuse its discretion in striking Williams’s affidavit in support of her opposition to the defendant’s motion for summary judgment. See Northwest Bank & Trust Co. v. First Ill. Nat’l Bank, 354 F.3d 721, 725 (8th Cir. 2003) (“We review the district court’s application of its local rules for an abuse of discretion.”). Based on her pattern of late filings, the court was well within its discretion to strike the document; especially considering her affidavit merely repeated the allegations contained in her complaint. See African Am. Voting Rights Legal Def. Fund, Inc. v. Villa, 54 F.3d 1345, 1350-51 (8th Cir. 1995) (finding no abuse of discretion when the district court refused to admit materials submitted in violation of local rules).

As to Williams’s remaining claims, we find that the district court correctly applied the summary judgment standard by resolving all doubt in Williams’s favor. For the reasons aptly stated by the district court, we find that Williams failed to raise any triable issues, thereby entitling the defendants to summary judgment.

Accordingly, we affirm. See 8th Cir. R. 47B.
